

Silence sends two to jail in fire probe

Grand jury looks at ELF activist group

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A judge jailed two San Diego environmental activists who refused to testify yesterday before a grand jury investigating a huge University City arson fire and a speech some 15 hours later by a convicted arsonist.

"You can be released from incarceration as soon as you agree to testify," Chief U.S. District Judge Irma E. Gonzalez said after finding the two activists in contempt. Their lawyers said they will appeal.

If they don't testify, they could be held until the grand jury's term expires Dec. 27, or beyond that if the jury's term is extended an additional six months, prosecutor John Parmley said during a San Diego federal court hearing.

He told the judge the lack of testimony hampers the investigation.

The grand jury is looking into an Aug. 1, 2003, fire that caused \$50 million damage to the La Jolla Crossroads housing complex, and into whether a radical activist broke the law while describing a 1992 incident of arson.

The Earth Liberation Front, or ELF, an environmental group that authorities describe as extremist, took responsibility for the University City fire, leaving a banner saying, "If you build it, we will burn it."

ELF also claimed to have set another series of fires in a new subdivision between Del Mar and Rancho Peñasquitos a few weeks later.

The activists said in interviews before they were jailed that they don't know who set the fires and maintain it would violate their First Amendment rights to be forced to testify about who attended the talk and what was said there.

"You have to look at the bigger picture," said Danae Kelley, 21. "I feel this is unconstitutional and I'm not going to go along with it."

Gonzalez rejected the First Amendment arguments and said she believes higher courts will back her decision, but criticized some of the government's tactics.

Lawyers Jeremy Warren and Julie Blair said they'll ask the judge to release the activists once it's clear that jailing them is punishing them rather than compelling them to talk.

The U.S. Attorney's Office has granted immunity from prosecution to Kelley and lecture organizer David Agranoff, indicating they don't suspect them of causing the fire.

Agranoff, 31, an assistant special-education teacher, said he would testify in an open court, but not in secret grand jury proceedings without a lawyer. He said he doesn't remember much of the talk.

A third activist who had refused to testify changed his mind and agreed to do so yesterday. Michael Cardenas said he left the speech before it ended, missing the part investigators are interested in.

While taking questions from the audience after the 2003 lecture, radical activist Rodney Coronado described how he made the device he used to torch a Michigan State University animal-testing laboratory in 1992.

"You're damn right when you say I've shown people how to make a fire bomb," he said in a telephone interview yesterday. He served a four-year prison term for that arson. "I've done my time for my crimes and I should be able to talk about them."

He says he speaks for both ELF and a related organization, the Animal Liberation Front.

"As a spokesperson, I consider it within my rights to explain not only their purpose but also their mode of operation," he said. During the San Diego talk, he said, he was explaining how easy it is to make an incendiary device.

"We are simple people," he said. "We are an organization using simple tools."

Prosecutors say Coronado may have violated a 2002 federal law that makes it a felony to provide information about how to make a bomb or other destructive device.

That law applies only if the person providing such information intends it to be used to commit a violent federal crime or knows a member of his audience intends to use the information to commit such a crime.

Coronado is under federal indictment for disabling a mountain lion trap in Arizona.

About a dozen people who attended the lecture have been subpoenaed. Several said they don't have the resources to fight an investigation they consider harassment and a government fishing expedition.

In an earlier, closed hearing yesterday, Judge Gonzalez said she didn't approve of the methods federal authorities used to investigate the crime, according to the activists and their lawyers.

The activists said their homes have been raided and they have been followed on long car trips, stopped for no reason and repeatedly contacted by federal agents after refusing to cooperate.

"They should sue and I hope they do sue," Gonzalez said, according to Cardenas.

Gonzalez also said she doesn't want the grand jury to be used by prosecutors to gather intelligence on the animal rights or environmental movements.

Prosecutors said the probe is an effort to investigate specific crimes and is not designed to harass.

The grand jury investigation comes shortly after the FBI labeled extremist animal rights and environmental movements the nation's top domestic terrorist threats.

It coincides with San Francisco grand jury subpoenas of activists over the disappearance of an animal rights activist wanted in 2003 bombings at a Bay Area biotech company and a nearby cosmetics company.

Coronado said he was in Tucson when the University City fire started and doesn't know who lit it, but said he was happy it was set.

The FBI has seized two videotapes of the speech and has talked to several people who were there.

But prosecutors told the judge yesterday the tapes end just before Coronado talks about how he torched the Michigan lab, according to the witnesses' lawyers.

Activists at the talk said they assumed the FBI had an agent among the more than 100 people in attendance.

Coronado said he expects to be charged in San Diego for what he said during his Hillcrest speech.

"I'm convinced of it. I'm betting my money on it," he said. "They can indict anybody in absence of their being able to defend themselves."

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